

REMARKS

Claims 1-9, 13-24, 26, and 36 are pending in the present Application. No amendments have been made to the claims in this Response. Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-7, 9, 14, 16, 17, 20-24, and 26 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over United States Patent No. 6,946,084 to Nakagawa, et al. (Nakagawa) in view of United States Patent No. 5,270,386 to Laughner (Laughner). Applicants respectfully traverse this rejection.

In making the rejection the Examiner has cited Nakagawa for teaching a composition which has 50 to 99 weight percent poly(phenylene ether) and has equated it with the concentrate of the pending claims. The Examiner has further cited Nakagawa for teaching that pellets of this composition were molded and has indicated that such a molding process would inherently require melt mixing. The Examiner cited Laughner for teaching adding material to a concentrate to make a final composition wherein the concentrate comprises poly(phenylene ether), apparently using the melt mixing of the molding step as a feature to connect the two references.

Thus, in one interpretation of the Examiner's argument, the Examiner is using the composition of Nakagawa as the concentrate as described Laughner to make a final composition. More specifically, the Examiner cites Laughner's teaching with regard to the amount of additives (including reinforcing fillers and the like) to make a final composition which has greater than 34 weight percent polyphenylene ether.

Applicants maintain that the Examiner has used an improper standard in arriving at the rejection of the above claims under section 103, based on improper hindsight, which fails to consider the totality of applicant's invention and to the totality of the cited references. More specifically the Examiner has used Applicant's disclosure to select portions of the cited references to allegedly arrive at Applicant's invention. In doing so, the Examiner has failed to consider the teachings of the references or Applicant's invention as a whole in contravention of section 103, including the disclosures of the references which teach away from Applicant's invention.

Specifically, the Examiner has ignored Laughner's teachings with regard to the amount of polyphenylene ether in the final composition. Laughner describes this at col. 2, beginning at line 62 and continuing to col.3, line 8. In this section Laughner describes that when a polyphenylene ether concentrate (polyphenylene ether blend) is used as component "b" it is used in an amount such that the poly(phenylene ether) content in the final composition does not exceed the amount when an unblended poly(phenylene ether) is used as component "b", namely no more than 30 parts by weight based on the total composition. Thus it is clear that Laughner teaches away from a composition having more than 30 parts by weight of poly(phenylene ether) and as such Laughner teaches away from the compositions of pending claims.

If, in an alternative interpretation of the Examiner's argument, the Examiner is citing Laughner only for the teaching with regard to adding a particular amount of filler to a thermoplastic blend Applicants respectfully assert that the references, when applied that way, fail to teach all the elements of the pending claims. The composition of Nakagawa cannot be used to describe both the concentrate and the final composition. Furthermore, there is no suggestion in Nakagawa to add an additional component, such as fiberglass during a molding operation. While there is some melt mixing during an injection molding operation it is a fairly low intensity mixing and of short duration and is a compounding step. In injection molding the final composition is melted and mixing while melting to ensure a homogeneous melt – there is insufficient opportunity for the addition and distribution of additional components. One of ordinary skill would not take the teaching of Laughner and apply it to the injection molding step of Nakagawa.

Claims 1-9, 15-17, 20-24, 26, and 36 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over United States Patent No. 6,822,026 to Jung, et al. (Jung) in view of Laughner. Applicants respectfully traverse this rejection.

Similar to the rejection based on the combination of Nakagawa and Laughner, the Examiner has apparently used the composition of Jung as the concentrate and applied the teachings of Laughner regarding using a concentrate to obtain a final composition. Applicants disagree with the rejection based on the combination of Jung and Laughner for the same reasons as discussed above with regard to the combination of Nakagawa and Laughner.

Claims 1-9, 13-24, 26, and 36 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over United States Patent No. 6,258,879 to Adedeji, et al. (Adedeji) in view of Laughner. Applicants respectfully traverse this rejection.

Similar to the rejections based on the combination of Nakagawa and Laughner as well as the combination of Jung and Laughner, the Examiner is apparently applying the final composition of Adedeji as the concentrate and alleging that it would be obvious to add reinforcing filler as taught by Laughner. Here, however, instead of using the melt mixing that is part of the injection molding process as a linking feature, the Examiner has cited Adedeji's teaching with regard to precompounding. Applicants respectfully assert that Adedeji teaches precompounding as a way to facilitate handling of the poly(phenylene ether) (see col. 2, lines 26-35) while making the final composition. Thus the final composition of Adedeji cannot be used as both concentrate and as final composition. In this way the combination of Adedeji and Laughner are no better than other combinations with Laughner described above. All of these combination require hindsight gained from the pending applications and claims and as such are not proper rejections under 35 U.S.C. § 103(a).

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Reconsideration and withdrawal of this rejection are respectfully requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

Respectfully submitted,

CANTOR COLBURN LLP

By /Patricia S. DeSimone/
Patricia S. DeSimone
Registration No. 48,137

Date: June 9, 2008
CANTOR COLBURN LLP
20 Church Street
22nd floor
Hartford, CT 06103-3207
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No.: 43249